

OGC 63-2197

OGC Has Reviewed

26 July 1963

MEMORANDUM FOR: SSA-DD/S

SUBJECT: Home Leave Prior to Completion of 24-Month Tour

1. In the past week a number of cases have been referred to this Office requesting opinions as to the legality of authorizing home leave for overseas employees after less than 24 months overseas. As you know, [] on 11 July 1963 allowing home leave after 18 months, provided "operational necessity, hardship, or compassionate circumstances" required. As we have said in our conversations on this subject, this [] extends beyond the authority of the Overseas Differentials and Allowances Act and since this is the only authority for granting home leave to Agency employees, the [] can have no legal effect.

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2. Two cases, which have arisen this week, have prompted this Office to request an oral opinion from a representative of GAO as to the application for home leave accrual and eligibility of TDY in the United States of less than four months during an overseas tour. He stated that the Comptroller General would have no legal objection to our applying such TDY at the close of a tour, provided in each case the official requirement for taking TDY is (a) well documented and (b) directed by a senior official of the Agency. Moreover, if the employee were transferred PCS to the U.S. prior to his return overseas for further duty, reimbursement for home leave could not be approved unless he had actually served 24 months overseas, i.e., TDY at the end of his tour could not be counted toward the 24 months.

3. We discussed two specific cases with our GAO contact. The first is a case in which the employee has been ordered to return home after 22 months overseas in order to accompany a number of foreign dignitaries on a tour of the U.S. for a two to three-month period. The second is the case of an individual who has been overseas 23 months whom Headquarters is moving from one post to another and would like to bring home TDY for briefing and then home leave. In both of these cases, the GAO representative could see no legal objection to our approving home leave after TDY provided that the total time overseas plus TDY was 24 months or more and that the individual was then reassigned overseas.

4. The GAO representative suggested that this rule be incorporated into our regulations to provide standard guidelines for administrators both at Headquarters and in the field. If it would be helpful, OGC is willing to draft the necessary changes

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/s/

Office of General Counsel

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Copy of Routing Sheet from SSA-DD/S to Chief, CCS

Garry:

Attached is a copy of a memorandum (OOC 63-2197), dated 26 July 1963, signed by Mr. [] a member of the Office of General Counsel. This memorandum was written to explain the legal limitations on the granting of home leave privileges and refers to [] dated 11 July 1963.

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